

**ASSEMBLY BILL**

**No. 2013**

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**Introduced by Assembly Member Jones-Sawyer**

February 16, 2016

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An act to add and repeal Section 991.5 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2013, as introduced, Jones-Sawyer. Criminal procedure: arraignment pilot program.

Existing law requires the magistrate, on motion of counsel for the defendant or the defendant, when the defendant is in custody at the time he or she appears before the magistrate for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, to determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty of that offense. Existing law requires the determination of probable cause to be made immediately, unless the court grants a continuance not to exceed 3 court days, for good cause.

This bill would establish a 5-year pilot project in 6 counties, as specified, that would require a court to apply those same procedures in the case of an arraignment of a defendant who is not in custody for a public offense that is a misdemeanor to which the defendant has pleaded not guilty, except that this bill would allow the court to grant a continuance not to exceed 15 days to determine probable cause.

The bill would require the Department of Justice to provide information to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the appropriate policy

committees of the Legislature regarding the implementation of the above provisions no later than July 1, 2021.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 991.5 is added to the Penal Code, to read:  
2     991.5. (a) On or before July 1, 2017, six counties shall be  
3     selected to participate in a five-year pilot project that would require  
4     a court, upon request by the defendant in the case of a defendant  
5     charged with a misdemeanor who is not in custody, to make a  
6     finding at the arraignment as to whether probable cause exists to  
7     believe that a public offense has been committed and that the  
8     defendant is guilty thereof.  
9     (b) The pilot counties shall be selected by a five member  
10    committee. One member of the committee shall be selected by the  
11    California Public Defenders Association, one member of the  
12    committee shall be selected by the California District Attorneys  
13    Association, one member of the committee shall be selected by  
14    the Judicial Council, and two members of the committee shall be  
15    selected by the Governor. The committee shall select the six  
16    counties that will participate in the pilot project, provided, however,  
17    that the County of Los Angeles shall be included in the pilot  
18    project.  
19    (c) The following arraignment procedure shall apply in the pilot  
20    project counties:  
21    (1) When the defendant is out of custody at the time he or she  
22    appears before the magistrate for arraignment and the public  
23    offense is a misdemeanor to which the defendant has pleaded not  
24    guilty, the magistrate, on motion of counsel for the defendant or  
25    the defendant, shall determine whether there is probable cause to  
26    believe that a public offense has been committed and that the  
27    defendant is guilty thereof.  
28    (2) The determination of probable cause shall be made  
29    immediately, unless the court grants a continuance for good cause  
30    not to exceed 15 court days.  
31    (3) In determining the existence of probable cause, the  
32    magistrate shall consider any warrant of arrest with supporting  
33    affidavits, and the sworn complaint together with any documents

1 or reports incorporated by reference thereto, which, if based on  
2 information and belief, state the basis for that information, or any  
3 other documents of similar reliability.

4 (4) If, after examining these documents, the court determines  
5 that there exists probable cause to believe that the defendant has  
6 committed the offense charged in the complaint, it shall maintain  
7 the trial date already calendared for the defendant.

8 (5) If the court determines that no probable cause exists, it shall  
9 dismiss the complaint and discharge the defendant.

10 (6) The prosecution may refile the complaint within 15 days of  
11 the dismissal of a complaint pursuant to this section.

12 (7) A second dismissal pursuant to this section is a bar to any  
13 other prosecution for the same offense.

14 (d) (1) No later than July 1, 2021, the Department of Justice  
15 shall provide information to the Assembly Committee on Budget,  
16 the Senate Committee on Budget and Fiscal Review, and the  
17 appropriate policy committees of the Legislature regarding the  
18 implementation of this section, including, but not limited to, the  
19 number of instances that a prompt probable cause determination  
20 made to an Out of Custody defendant facing a misdemeanor charge  
21 resulted in the defendant's early dismissal.

22 (2) A report submitted pursuant to paragraph (1) shall be  
23 submitted in compliance with Section 9795 of the Government  
24 Code.

25 (e) This section shall become inoperative on July 1, 2022, and,  
26 as of January 1, 2023, is repealed, unless a later enacted statute,  
27 that becomes operative on or before January 1, 2023, deletes or  
28 extends the dates on which it becomes inoperative and is repealed.